

FILED

SEP 28 2009

In the United States District Court  
for the Western District of Texas  
Waco Division

CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
BY                      DEPUTY CLERK

United States of America,  
*Plaintiff,*

v.

Andre Bailey,  
*Defendant.*

Place of Confinement

36497-180

Prisoner ID Number

W: 04-LR-219-(3) WSSM

Criminal Case Number

Defendant's Motion and Questionnaire for Reduction of Sentence  
Pursuant to 18 U.S.C. § 3582(c) Based on the Retroactive Amendments to  
the Crack Cocaine Sentencing Guideline

Instructions - Read Carefully

This form IS NOT AN OFFICIAL COURT FORM. It was prepared by Baylor Law Professor Mark Osler and the Federal Public Defender's Office for the Western District of Texas, and is based on a similar one prepared by the defender's office for the Northern District of Texas.

This form was prepared in response to the United States Sentencing Commission's amendments lowering the sentencing ranges applicable to crack cocaine offenses by two levels. See U.S.S.G. App. C, Amends. 706 and 715, made effective Nov. 1, 2007 and May 1, 2008. On December 11, 2007 and May 1, 2008, the Commission promulgated a policy statement making the reduction retroactive. See U.S.S.G. §1B1.10, p.s. Nothing in this form constitutes legal advice or a promise of representation in any case.

If you decide to use this form, it should be legibly handwritten or typewritten. All questions should be briefly answered in the proper space on the form. Additional information may also be presented to the court. To file this form as a motion, the original and two copies must be mailed to:

Clerk of Court – Waco Division  
United States District Courthouse  
800 Franklin Ave # 380  
Waco TX 76701

### Questionnaire

1. Name and location of court that entered the sentence that you are asking to reduce:  
800 Franklin Ave # 380 Waco Division
2. Date(s) of sentence and judgment of conviction:  
In November 05 sometime before Thanksgiving
3. Length of sentence: 29 years
4. Are you currently in prison for this sentence?  
✓ Yes        No
5. If so, when is your projected date of release?  
08-02-2030
6. Are you currently on supervised release?        Yes ✓ No
7. Are you currently in prison because you violated your supervised release ?  
       Yes ✓ No
8. Is your case currently on appeal?        Yes ✓ No
9. Offense(s) for which you were convicted (all counts):  
Conspiracy and gun charge
10. Did your offense of conviction involve cocaine base (crack cocaine)?  
✓ Yes        No        Don't know

11. Did your offense of conviction involve crack cocaine plus other controlled substances (such as powder cocaine, methamphetamine, or marihuana)?

\_\_\_\_\_ Yes    ☒ No    \_\_\_\_\_ Don't know

12. In calculating the applicable sentencing guideline range, did the Court refer to the offense levels for cocaine base (crack cocaine)?

\_\_\_\_\_ Yes    \_\_\_\_\_ No    ☒ Don't know

13. Was your sentence based on an agreement with the Government for a specific sentence? (This is commonly known as a Rule 11(c)(1)(C) agreement.)

\_\_\_\_\_ Yes    \_\_\_\_\_ No    ☒ Don't know

14. Were you convicted of an offense that required a statutory mandatory minimum prison sentence be served?

\_\_\_\_\_ Yes    \_\_\_\_\_ No    ☒ Don't know

- 14(a). If your answer to question 14 is yes, was your sentence greater than the statutory mandatory minimum?

\_\_\_\_\_ Yes    \_\_\_\_\_ No    \_\_\_\_\_ Don't know

15. Were you held accountable under the United States Sentencing Guidelines for less than 250 milligrams of cocaine base (crack cocaine)?

\_\_\_\_\_ Yes    \_\_\_\_\_ No    ☒ Don't know

16. Were you held accountable under the United States Sentencing Guidelines for 4.5 kilograms or more of cocaine base (crack cocaine)?

\_\_\_\_\_ Yes    \_\_\_\_\_ No    ☒ Don't know

17. Were you held accountable under the United States Sentencing Guidelines for multiple types of controlled substances (for example, did it involve crack cocaine, plus powder cocaine, plus methamphetamine)?

\_\_\_\_\_ Yes    ☒ No    ☒ Don't know

18. Were you represented by an attorney at your sentencing hearing and, if the answer is yes, what is their name and address?

✓ Yes                      No

Name and Address of attorney:

Scott K. Stevens

Stevens & Steven 700 E. Main,

Gatesville, Tx 76528

19. Do you have the funds to hire an attorney to represent you in this proceeding?

✓ Yes                      No

- 19(a). If the answer to question 19 is No, please complete the attached Application to Proceed Without Prepayment of Fees and Affidavit.

20. List any good conduct that occurred after your original sentencing hearing that you would like the Court to know in deciding whether you should receive a sentence reduction (for example, participating in a drug treatment program, or completing your GED or another degree).

I completed 8 Hours of Basic Confined Space Training

I also completed 3 ACE Film Classes

I completed 10 Alcoholics/Narcotics Anonymous meeting

I also passed my pre-ged test I'm just waiting ~~to~~ for them to give me

the real ged test so I can pass it and work on me getting a ~~date~~ trade in  
CDL so I can drive trucks when I come home.

And I completed <sup>27</sup> hours drug program.

Wherefore, defendant prays that the Court grant defendant relief to which he or she may be entitled in this proceeding.

Respectfully submitted this 17 of December, 2008.

Andre Bailey  
Signature of Defendant

Andre Bailey  
Printed Name

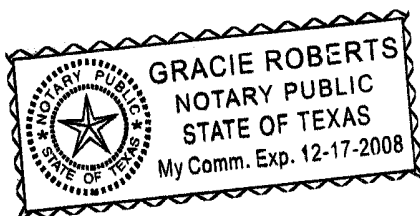
36497-180  
BOP No.

Three Rivers  
Federal Correctional Institution (if applicable)

P.O. Box 4200  
Address

Three River, Tx 78071  
City, State & Zip Code

*[Handwritten signature]*



# Certificate of Completion

*Awarded to:*

BAILEY, ANDRE 36497-180



*For successfully completing a class in*  
CHOICE AND CHANGE; 27HR. DRUG EDUCATION

On this 29TH. day of AUGUST, 2006.

*At the Federal Correctional Institution,  
Psychology Department, Three Rivers, Texas.*

*Juan Ramos, M.S.*  
Juan Ramos, DTS

*Lynn Kaufman, Ph.D., Chief Psychologist*



# Certificate of Completion

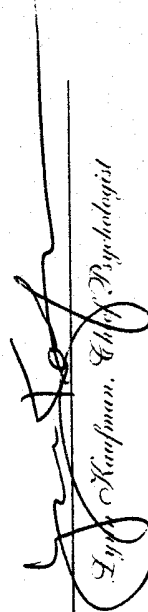
*Awarded to:*

BAILEY, ANDRE 37497-180

*For successfully completing a class in*  
**Alcoholics / Narcotics Anonymous 10 Meeting**

at FCI Three Rivers and is hereby acknowledged with this certificate  
for his contribution and efforts towards his personal growth.

Given on this 22ND day of MARCH 2007.

  
Lyle Kaufman, Chief Psychologist



# *Certificate of Completion*

awarded to:

Andre Bailey

Completion of A.C.E. Class  
Film Critique 2

On This 18<sup>th</sup> Day of Sept, 2007

  
\_\_\_\_\_  
J. Lara, A.C.E. Coordinator



# *Certificate of Completion*

awarded to:

Andre Bailey

Completion of A.C.E. Class  
Film Critique 3

On This 13<sup>th</sup> Day of Oct., 2008

  
J. Lata, A.C.E. Coordinator



# *Certificate of Completion*

awarded to:

**Andre Bailey**

Completion of A.C.E. Class  
Film Critique 1

On This 13<sup>th</sup> Day of June, 2007

*Jane Jara*

J. Lara, A.C.E. Coordinator

# CERTIFICATE OF COMPLETION

PRESENTED TO:

*Andre Bailey*

Has Successfully Completed 8 Hours of Basic Confined Space Training

At FCI Three Rivers, Texas  
On October 25, 2007

*John Piskor*  
John Piskor, WWI Foreman

*10-19-2007*

Date

ANDRE BAILEY # 36497-180  
Federal CORRECTIONAL INST  
P.O. BOX 4200  
THREE RIVERS, TX L-A  
78071

36497-180  
WALTER SMITH JR  
800 Franklin Ave380  
Waco, TX - 76701  
United States

